

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4077 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VITTHALBHAI UKABHAI PATEL

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR SN BHATT for Petitioner
SERVED BY DS for Respondent No. 1
MR TUSHAR MEHTA for Respondent No. 2
MR RD DAVE for Respondent No. 3

CORAM : MR.JUSTICE R.BALIA.

Date of decision: 19/07/96

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr.Tushar Mehta,
learned counsel for the respondent No.1 and 2., and by
Mr.R.D.Dave, learned counsel for respondent no.3.

Petitioner is a purchaser of an Industrial Unit
from the Gujarat State Financial Corporation which has

auctioned it in exercise of its power u/s. 29 of Specific Performance of Contract Act. At the time of purchase, Gujarat Electricity Board has already disconnected power supply for default in payment of its dues, against original holder. Petitioner applied for new connection to the Gujarat Electricity Board. Board is insisting for clearance of outstanding dues against the previous owner before considering the application of the petitioner for reconnection of power supply.

Both the learned counsel state that matter is squarely covered by the ration laid down by the Supreme Court in the case of M/s. Isha Marbles Versus Bihar State Electricity Board, reported in 1995(2) G.L.H. 134 in favour of the petitioner's contention that ordinarily from the purchaser of the property of a close Unit from Gujarat State Financial Corporation, the Board is not justified in insisting upon payment of dues of the previous owners of the Unit, for the reason that there is no privity of contract between the Board and the new purchaser for payment of the dues of the previous owner.

In view of this, the petition is allowed. Respondent Board is directed to consider the application of the petitioner for release of new power connection on the basis of principles laid down in M/s. Isha Marbles's case (supra) within a period of TEN days. Rule is made absolute accordingly. No order as to costs.
